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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/727,794	12/04/2003	Kurt A. Winiecki	3539	6837
49224	7590	01/09/2008		
NIRO, SCAVONE, HALLER & NIRO 181 W. MADISON SUITE 4600 CHICAGO, IL 60602			EXAMINER MERCHANT, SHAHID R	
			ART UNIT 3692	PAPER NUMBER
			MAIL DATE 01/09/2008	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/727,794

Applicant(s)

WINIECKI, KURT A.

Examiner

Shahid R. Merchant

Art Unit

3692

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 21 November 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 November 2007 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Status of the Claims***

1. This action is in response to the amendment filed on November 21, 2007.

Claims 1-21 are pending. Claims 1, 2, 4-9, 11, 14, 15, 17 and 21 have been amended.

### ***Response to Arguments***

2. Applicant's arguments, see pages 8-9, filed November 21, 2007, with respect to claim objections have been fully considered and are persuasive. The claim objection of claims 1, 2, 4-9, 11, 14, 15, 17 and 21 has been withdrawn.

3. Applicant's arguments, see pages 9-10, filed November 21, 2007, with respect to 35 U.S.C. 112 1<sup>st</sup> paragraph have been fully considered and are persuasive. The rejection of claims 1, 8 and 15 has been withdrawn.

4. Applicant's arguments, see page 11, filed November 21, 2007, with respect to 35 U.S.C. 112 2<sup>nd</sup> paragraph have been fully considered and are persuasive. The rejection of claims 1, 8, 15, 19 and 20 has been withdrawn.

5. Applicant's arguments, see page 11, filed November 21, 2007, with respect to the drawing have been fully considered and are persuasive. The objection of the drawings has been withdrawn.

6. Applicant's arguments with respect to claims 1-21 have been considered but are moot in view of the new ground(s) of rejection.

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 1-21 rejected under 35 U.S.C. 103(a) as being unpatentable over A Primer on Preferential Transfers in Bankruptcy by Robert S. Bernstein (see PTO-892, Ref. V) [Hereinafter Bernstein] in view of Holm et al., U.S. Patent Application Publication 2003/0220863 (see PTO-892, Ref. A).

9. As per claim 1, Bernstein teaches a method of calculating the contemporaneous exchange for new value defense for one or more preference payments comprising the steps of: calculating a payment time for each of said preference payments, said calculation being a function of said payment date and said provided date; selecting a CENV payment time; comparing said selected CENV payment time to said calculated payment time of said preference payments; and differentiating those of said preference payments having payment times that are less than or equal to said CENV payment time from the remainder of said preference payments (see Parts 8 and 9).

Bernstein does not explicitly teach creating in said data processing medium, one or more lines of data related to each of said preference payments, each of said lines of data including an expression of an invoice amount, a payment date and a provided date.

Holm teaches creating in said data processing medium, one or more lines of data related to each of said preference payments, each of said lines of data including an expression of an invoice amount, a payment date and a provided date (see paragraphs 108-118 and 11-14).

Therefore, it would be prima facie obvious to a person of ordinary skill in the art at the time of the invention to combine the teachings of Bernstein and Holm to create one or more lines of data related to an expression of an invoice amount, a payment date and a provided date in a data processing medium because doing it on a computer is faster and more efficient than traditional paper payment systems as taught by Holm (see paragraph 11).

10. As per claim 2, Bernstein and Holm teach the method of claim 1 as described above. Bernstein further teaches comprising: repeating said comparing step and said differentiating step for a plurality of said selected CENV payment times (see Parts 8 and 9).

11. As per claim 3, Bernstein and Holm teach the method of claim 1 as described above. Official Notice is taken that spreadsheet software programs and database software programs are old and well known in the art. One would be motivated to use these software programs because they are more efficient than traditional paper systems.

12. As per claims 4, Bernstein teaches the method of claim 2 as described above. Bernstein further teaches displaying concurrently the result of said differentiating step for each of said selected CENV payment times (see Parts 8 and 9). Official Notice is

taken that displaying data in a spreadsheet or database software program is old and well known in the arts.

13. As per claims 5, Bernstein and Holm teach the method of claim 1 as described above. Bernstein further teaches summing said invoice amounts for those of said preference payments having payment times that are less than or equal to said CENV payment time (see Parts 8 and 9). Official Notice is taken that summing of invoice amounts for various payments in a spreadsheet or database software program is old and well known in the arts.

14. As per claims 6, Bernstein teaches the method of claim 5 as described above. Bernstein further teaches comprising: repeating said comparing step, said differentiating step and said summing step for a plurality of said selected CENV payment times (see Parts 8 and 9).

15. As per claims 7, Bernstein teaches the method of claim 6 as described above. Bernstein further teaches displaying concurrently the result of said summing step for each of said selected CENV payment times (see Parts 8 and 9). Official Notice is taken that displaying data in a spreadsheet or database software program is old and well known in the arts.

16. As per claim 8, Bernstein teaches a method of calculating the ordinary course of business defense for one or more preference payments comprising the steps of: calculating a payment time for each of said preference payments, said calculation being a function of said payment date and said provided date; selecting an assumed payment time; selecting a day spread; calculating an OCB protected range, said calculation being

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a function of said assumed payment time and said day spread; comparing said OCB protected range to said calculated payment time of said preference payments; and differentiating those of said preference payments having payment times that fall within said OCB protected range from the remainder of said preference payments (see Parts 8 and 9).

Bernstein does not explicitly teach creating in said data processing medium, one or more lines of data related to each of said preference payments, each of said lines of data including an expression of a payment date and a provided date.

Holm teaches creating in said data processing medium, one or more lines of data related to each of said preference payments, each of said lines of data including an expression of a payment date and a provided date (see paragraphs 108-118 and 11-14).

Therefore, it would be prima facie obvious to a person of ordinary skill in the art at the time of the invention to combine the teachings of Bernstein and Holm to create one or more lines of data related to an expression of a payment date and a provided date in a data processing medium because doing it on a computer is faster and more efficient than traditional paper payment systems as taught by Holm (see paragraph 11).

17. As per claim 9, Bernstein and Holm teach the method of claim 8 as described above. Bernstein further teaches comprising: repeating said comparing step and said differentiating step for a plurality of said OCB protected ranges (see Parts 8 and 9).

18. Claim 10 recites similar limitations to claim 3 and thus rejected using the same art and rationale in the rejection of claim 3 as set forth above.

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19. As per claim 11, Bernstein teaches the method of claim 9 as described above. Bernstein further teaches comprising: displaying concurrently the result of said differentiating step for each of said OCB protected ranges (see Parts 8 and 9). Official Notice is taken that displaying data in a spreadsheet or database software program is old and well known in the arts.

20. As per claim 12, Bernstein teaches the method of claim 8 as described above. Bernstein further teaches wherein said assumed payment time is an historical average payment time (see Parts 8 and 9).

21. As per claim 13, Bernstein teaches the method of claim 11 as described above. Bernstein further teaches wherein said displaying step sorts each set of said results by said payment time of said preference payments in chronological order (see Parts 8 and 9). Official Notice is taken that displaying data in a spreadsheet or database software program is old and well known in the arts.

22. As per claim 14, Bernstein teaches the method of claim 8 as described above. Bernstein further teaches comprising: repeating said comparing step and said differentiating step for at least 12 of said OCB protected ranges (see Parts 8 and 9).

23. As per claim 15, Bernstein teaches a method of calculating the ordinary course of business defense and the subsequent new value defense for one or more preference payments comprising the steps of: calculating a payment time for each of said preference payments, said calculation being a function of said payment date and said provided date; selecting an assumed payment time; selecting a day spread; calculating an OCB protected range, said calculation being a function of said assumed payment



time and said day spread; comparing said OCB protected range to said calculated payment time of said preference payments; differentiating those of said preference payments having payment times that fall within said OCB protected range from the remainder of said preference payments; summing said invoice amounts for those of said preference payments having payment times that fall within said OCB protected range; sorting said lines of data chronologically based on said payment date; distinguishing lines of data related to said preference payments having payment times that fall within said OCB protected range from the remainder of said lines of data; calculating the subsequent new value associated with each of said preference payments remaining after said distinguishing step; summing said subsequent new value associated with each of said preference payments remaining after said distinguishing step; and combining the sum of said invoice amounts for those of said preference payments having payment times that fall within said OCB protected range with the sum of said subsequent new value associated with each of said preference payments remaining after said distinguishing step (see Parts 8, 9 and 11).

Bernstein does not explicitly teach creating in said data processing medium, one or more lines of data related to each of said preference payments, each of said lines of data including an expression of a payment date, a provided date and an invoice amount.

Holm teaches creating in said data processing medium, one or more lines of data related to each of said preference payments, each of said lines of data including an

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expression of a payment date and a provided date (see paragraphs 108-118 and 11-14).

Therefore, it would be prima facie obvious to a person of ordinary skill in the art at the time of the invention to combine the teachings of Bernstein and Holm to create one or more lines of data related to an expression of a payment date and a provided date in a data processing medium because doing it on a computer is faster and more efficient than traditional paper payment systems as taught by Holm (see paragraph 11).

Official Notice is taken that calculating various data in specific fields, comparing the data, summing the data and sorting said lines of data chronologically is old and well known in the art of spreadsheet and database programs.

24. Claim 16 recites similar limitations to claim 3 and thus rejected using the same art and rationale in the rejection of claim 3 as set forth above.

25. As per claim 17, Bernstein teaches the method of claim 15 as described above. Bernstein further teaches comprising: selecting a CENV payment time; comparing said selected CENV payment time to said calculated payment time of said preference payments; differentiating those of said preference payments having payment times that are less than or equal to said CENV payment time from the remainder of said preference payments; and distinguishing lines of data related to said preference payments having payment times that are less than or equal to said CENV payment time from the remainder of said lines of data prior to said sorting step (see Parts 8, 9 and 11).

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26. Claim 18 recites similar limitations to claim 3 and thus rejected using the same art and rationale in the rejection of claim 3 as set forth above.

27. As per claims 19 and 20, Bernstein teaches the method of claim 15 and 17 as described above. Bernstein further teaches displaying concurrently the result of said calculations of said ordinary course of business defense and said subsequent new value defense and displaying concurrently the result of said calculations of said contemporaneous exchange for new value defense, said ordinary course of business defense and said subsequent new value defense (see Parts 8 and 9). Official Notice is taken that displaying data in a spreadsheet or database software program is old and well known in the arts.

28. Claim 21 recites similar limitations to claim 2 and thus rejected using the same art and rationale in the rejection of claim 2 as set forth above.

### ***Conclusion***

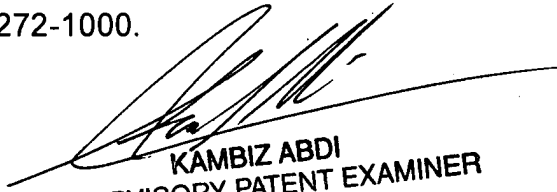
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shahid R. Merchant whose telephone number is 571-270-1360. The examiner can normally be reached on First Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kambiz P. Abdi can be reached on 571-272-6702. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

SRM



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SUPERVISORY PATENT EXAMINER